



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2013-0698; FRL-9907-32-Region 7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the State Implementation Plan (SIP) submitted by the State of Missouri which revises the written reporting requirements for maintenance, start-up, or shutdown activities; updates the information a source operator must provide to the department when a notice of excess emissions is received; and corrects references in the reporting and record keeping section.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2013-0698. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available

only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m. to 4:30 p.m. excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7147, or by email at bhesania.amy@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in this Document?
- II. Have the Requirements for Approval of a SIP Revision Been Met?
- III. What is EPA's response to comments?
- IV. What Action is EPA Taking?

I. What is Being Addressed in this Document?

EPA is approving revisions to the Missouri SIP submitted to EPA on July 8, 2010 which amends 10 CSR 10-6.050 *Start-up, Shutdown, and Malfunction Conditions*. Specifically, Missouri

amended subsection 3(B) to remove the option for verbal notification and therefore only written notification is allowed for any maintenance, start-up, or shutdown activity which is expected to cause an excess release of emissions that exceeds one hour. This change makes the written notification requirements consistent for subsections (3)(B) which covers maintenance, start-up and shutdown, and (3)(A) which covers malfunctions. Subparagrah (3)(B)3. was removed because the requirement was only applicable to malfunctions which is addressed in subsection (3)(A).

The remaining revisions to the rule are administrative changes which revise the rule to be consistent with the state's standard rule format or make other minor clarifying changes. Subparagraphs (3)(B)3 through (3)(B)9 were renumbered to adjust for the removal of item (3)(B)3. Subparagraph (3)(C)2 includes minor administrative changes to meet the state's standard rule format. Subparagraphs (3)(C)2.A and (3)(C)2.B were removed because they were redundant and replaced with references to the appropriate applicable subsections of the rule. Subsection (4)(B) was revised to be consistent with the state's standard rule format.

In a separate action on February 22, 2013, EPA has proposed to address a petition by Sierra Club related to SSM provisions,

including 10 CSR 10-6.050(3)(C) (78 FR 12459). In this separate action, EPA proposed to deny the petitioner's request that EPA take action under Clean Air Act (CAA) section 110 (k)(5) or(6) to direct the state to revise this provision. The revisions in today's action do not address the sections of the regulation challenged by the Sierra Club in its petition. The revisions in today's action clarify and strengthen the Missouri SIP. By removing the option for oral notification in 10 CSR 10-6.050(3)(B), and requiring written notification, the Missouri SIP is more stringent. The revision in 10 CSR 10-6.050(3)(C)2.A clarifies the notification requirements for malfunctions by referring to section 10 CSR 10-6.050(3)(A). The revision in 10 CSR 10-6.050 (3)(C)2.B clarifies the general notification requirements for maintenance, startup, or shutdown activities by referring to the general notification requirements set forth in 10 CSR 10-6.050(3)(B).

The revisions in today's action are consistent with CAA requirements for SIP provisions and do not violate the anti-backsliding provisions in section 110(l) or section 193 of the CAA because they are SIP strengthening and do not interfere with any applicable requirements concerning attainment or reasonable further progress nor do they affect control measures in effect prior to the 1990 CAA Amendments related to nonattainment areas.

Further, these revisions are consistent with the action proposed by EPA on February 22, 2013 as mentioned above (78 FR 12459).

II. Have the Requirements for Approval of a SIP Revision Been Met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What is EPA's response to comments?

The public comment period on EPA's proposed rule opened December 3, 2013, the date of its publication in the **Federal Register**, and closed on January 2, 2014 (78 FR 72608). During this period, EPA received no comments.

IV. What Action is EPA Taking?

EPA is taking final action to amend the Missouri SIP by approving the state's request to amend 10 CSR 10-6.050 *Start-Up, Shutdown, and Malfunction* to update written reporting requirements, correct references, and other minor clarifying changes. Approval of these revisions ensures consistency between

state and Federally-approved rules. EPA has determined that these changes will not relax the SIP or adversely impact air emissions.

Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian

country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial

review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 13, 2014

Mike Brinks,
Acting Regional Administrator,
Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 -APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart AA - Missouri

2. In § 52.1320 the table in paragraph (c), under Chapter 6 is amended by revising the entry for "10-6.050" to read as follows:

§ 52.1320 Identification of plan.

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(c) * * *

EPA-Approved Missouri Regulations

| Missouri citation | Title | State effective date | EPA approval date | Explanation |
|---|--|----------------------|--|-------------|
| Missouri Department of Natural Resources | | | | |
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| Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri | | | | |
| * * * * * | | | | |
| 10-6.050 | Start-up, Shutdown, and Malfunction Conditions | 07/30/10 | [FEDERAL REGISTER office: insert date of Federal Register publication and insert Federal Register page number where the document begins] | |
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[FR Doc. 2014-04779 Filed 03/04/2014 at 8:45 am; Publication
Date: 03/05/2014]